

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6806

BILL NUMBER: HB 1270

NOTE PREPARED: Dec 22, 2003

BILL AMENDED:

SUBJECT: Common Construction Wage and Fringe Benefit Liens.

FIRST AUTHOR: Rep. Liggett

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☒ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill establishes requirements for the procedure used to determine the wage scale for the construction of a public work. It allows, under certain conditions, an apprentice wage. The bill requires a contractor or subcontractor constructing a public work to file weekly payroll records. It also requires that certain provisions related to the common construction wage be included in public works contracts and subcontracts. The bill makes certain actions a misdemeanor or an infraction.

The bill disqualifies a contractor or subcontractor who has a prior conviction under the common wage law and is convicted of a subsequent, unrelated offense from being awarded a public works contract. The bill also requires the Department of Labor to resolve disputes relating to the payment of the common construction wage. It makes it a Class A misdemeanor for a contractor or subcontractor to fail to employ United States citizens on a public works project.

The bill allows an employee in the construction trades to record a mechanic's lien for unpaid or unsatisfied fringe benefits and withholdings due.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Common Construction Wage Committee:* The bill specifies that the Common Construction Wage Committee shall consider data presented by the Department of Workforce Development, collective bargaining agreements, and other data submitted by interested parties. The information is limited to wages and benefits currently being paid by construction industry employers. Testimony presented to the committee must be under oath or affirmation. The precise impact of the change made by this bill cannot be determined. A contractor or subcontractor of a public works project would be

required to file weekly payroll records with the state or municipal corporation that let the contract. Submitting a false or incomplete payroll report, or a contractor or subcontractor failing to employ a United States citizen on a public works project is a Class A Misdemeanor. Failure to submit a report is a Class B infraction. Failure to make payroll available for inspection, copying, or transcription or permitting and interview of an employee is a Class A infraction.

Mechanic's Lien: The portion of the bill that allows an employee in the construction trades to record a mechanic's lien for unpaid or unsatisfied fringe benefits and withholdings due should have no state fiscal impact.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum judgment for a Class A infraction is \$10,000, which would be deposited in the state General Fund. The maximum judgment for a Class B infraction is \$1,000, which would be deposited in the state General Fund. However, any additional revenue would likely be small.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

Mechanic's Lien: The portion of the bill that allows an employee in the construction trades to record a mechanic's lien for unpaid or unsatisfied fringe benefits and withholdings due should have no local fiscal impact.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Labor, Department of Workforce Development.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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